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March 16, 2001

Via electronic filing

Honorable Nicholas G. Garaufis  
United States District Court  
Eastern District of New York  
Brooklyn Courthouse  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: European Community, et al. v. RJR Nabisco, Inc., etc.  
Case number: 00 Civ 06617 (NGG)

Dear Judge Garaufis:

We have received the letter from Irvin Nathan to Your Honor dated March 14, 2001, concerning our request to subpoena bank records. In reviewing the final paragraph of his letter, it appears that the only real difference between his proposal and mine is that he believes that we should have to file a motion with the Court every time a bank declines to cooperate and a subpoena must be served. We consider this to be an undue burden on the Court and wholly unnecessary. Because the defendants have the right to review our requests prior to them being sent to the banks, safeguards are already in place to insure that at this stage of discovery our requests will not be overbroad or unduly burdensome upon the banks. It is only once a bank has declined to cooperate with our letter request that a subpoena would be issued for those requested documents. This being the case, to save the litigants

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time and to cause the Court the least inconvenience, the plaintiffs believe that it would be reasonable that they be allowed to serve subpoenas on any bank which has declined to preserve the records as requested in our letters.

In sum, we request that we be given leave to send out additional requests to banks, in cooperation with the defendants, in an attempt to get the banks to voluntarily agree to preserve records that may be subject to destruction. If the banks refuse to comply without the issuance of a subpoena, we request permission to serve a subpoena on the bank without having to further burden the Court with an additional motion.

Very truly yours,

/s/

Kevin A. Malone

KAM/hmp

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